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March 20, 2006

The Honorable Charles Terreni
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Petition to Establish Generic Docket to Consider Amendments to
Interconnection Agreements Resulting from Changes of Law
Docket No. 2004-316-C

Dear Mr. Terreni:

Enclosed for filing are an original and ten copies of BellSouth Telecommunications, Inc.'s Petition for Clarification in the above-referenced matter.

By copy of this letter, I am serving all parties of record with a copy of this Petition as indicated on the attached Certificate of Service.

Sincerely,

Patrick W. Turner

PWT/sgm
Enclosure
cc: All Parties of Record
DM5 #626770

RETURN DATE: N/A
SERVICE: OK tool

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

SC PUBLIC
UTILITY
COMMISSION
2006 MAR 20 PM 3:40
PFC/STW/MD

In Re:)	
)	Docket No. 2004-316-C
Petition to Establish Generic Docket to)	
Consider Amendments to Interconnection)	
Agreements Resulting From Changes of Law)	
_____)	

**BELLSOUTH TELECOMMUNICATIONS, INC'S
PETITION FOR CLARIFICATION**

Pursuant to S.C. Code Ann. §58-9-1200, BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits this Petition for Clarification of two aspects of the Commission's *Order Addressing Changes of Law*, dated March 10, 2006.

I. Issues 4, 5, and 7

With regard to Issues 4, 5, and 7, the Commission's *Order* makes clear the wire centers in South Carolina that satisfy the FCC's impairment tests.¹ The *Order* also provides that "BellSouth shall modify its language where appropriate to allow wire centers to become impaired, if indeed, this becomes the case after March 10, 2006 . . ."² Finally, the *Order* provides that "[i]f a wire center is later found to be impaired then BellSouth must also issue a Carrier Notification Letter, and then furnish the appropriate UNEs at TELRIC prices"³

A. Requested Clarification

As explained below, all parties apparently agree that once it is determined that CLECs are not impaired without access to certain UNEs in a given wire center, future

¹ *Order*, p. 41.
² *Order*, p. 39.
³ *Order*, p. 46.

changed circumstances cannot cause that wire center to revert to impaired status. BellSouth does not believe the *Order* attempts to abrogate the FCC Rules and Orders that require this result,⁴ but one or more CLECs may attempt to read the *Order* in that manner. In order to avoid unnecessary disputes that may result from such a reading, BellSouth respectfully requests that the Commission clarify its intent regarding these statements in its *Order*. In particular, BellSouth requests that the Commission clarify that the wire centers listed at page 41 of its *Order* cannot later become impaired absent a change in the binding federal rules.

B. Reasons supporting requested clarification.

The parties' disputes concerning wire centers that qualify for relief evolved from broad, open-ended issues⁵ to issues that focused specifically on the meaning of the FCC's business line and fiber-based collocation definitions. To explain the basis for BellSouth's requested clarification, BellSouth more fully addresses this evolution as follows.

Initially, the parties had agreed to include Issue 7 in this and other parallel change of law proceedings. Issue 7 asked "Once a determination is made that CLECs are not impaired without access to high capacity loops or dedicated transport pursuant to the FCC's rules, can changed circumstances reverse that conclusion, and if so, what process should be included in Interconnection Agreements to implement such changes?" Thus, Issue 7 asked whether a wire center, once determined to be "not impaired" for the purposes of unbundling high capacity loops and dedicated transport, could revert to being an "impaired" wire center if circumstances changed.

⁴ BellSouth believes the language identified above is intended to address new wire centers that may be constructed in the future and not existing wire centers that have already been determined not to be impaired.

⁵ These issues were filed with the Commission on June 20, 2005, in the form of an issues list that was attached to BellSouth's Motion for Summary Judgment.

BellSouth moved for summary judgment on Issue 7 and, in its response to BellSouth's Motion, CompSouth acknowledged "[t]here is no live dispute between the parties that requires resolution on th[i]s issue[] . . ."⁶ Likewise, by letter dated July 27, 2005, US LEC informed the Commission that it did not object to the withdrawal of Issue 7 from this proceeding, subject to any pending FCC motions for clarification. Consequently, during a pre-hearing telephone conference in which all parties were represented, BellSouth advised the Commission that a ruling on Issue 7 was not required.

Issue 7 was removed from this proceeding because the FCC has clearly and unequivocally decided the issue. The *TRRO* and the applicable federal rules expressly state that changed circumstances cannot reverse the classification of unimpaired wire centers.⁷ Specifically, for DS1 and DS3 loops, "[o]nce a wire center exceeds [certain] thresholds, *no future DS1 [or DS3] loop unbundling will be required in that wire center.*"⁸ Likewise, for dedicated transport in Tier 1 or Tier 2 wire centers, the federal rules make clear that "[o]nce a wire center is determined to be a Tier 1 [or Tier 2] wire center, that wire center is not subject to later reclassification."⁹ The FCC explained that any other result "could be disruptive as applied to a dynamic market if modest changes in competitive conditions resulted in the reimposition of unbundling obligations."¹⁰ Clearly, once it is determined that CLECs are not impaired without access to certain UNEs in a given wire center, future changed circumstances cannot cause that wire center to revert to impaired status.

⁶ See CompSouth's Response to BellSouth's Motion, filed July 18, 2005, at p. 5.

⁷ See *TRRO*, ¶ 167 (at n. 466); 47 C.F.R. §§ 51.319(a)(4); 51.319(a)(5); 51.319(e)(3).

⁸ 47 C.F.R. §51.319(a)(4) and (a)(5) (emphasis added).

⁹ 47 C.F.R. §51.319(e)(3).

¹⁰ *TRRO*, n. 466.

In light of the explanations above, BellSouth requests that the Commission clarify that the wire centers listed at page 41 of its *Order* cannot later become impaired, absent a change in the binding federal rules.

II. Issues 23 and 28

In addressing the appropriate language to include in interconnection agreements relating to fiber to the home (“FTTH”) and fiber to the curb (“FTTC”) loops, the Commission ruled that BellSouth’s contract language should be modified “to allow the provisions of the requested loop in wire centers which are impaired at TELRIC prices.” *Order*, p. 66.

A. Requested Clarification

BellSouth respectfully requests that the Commission clarify the language that is to be included in Interconnection Agreements to satisfy this aspect of the Commission’s *Order*. BellSouth believes this aspect of the *Order* may be intended to address the parties’ disagreement concerning DS1 loops or DS1 EELs. If the Commission intended to require BellSouth to provide access to certain DS1 FTTH or FTTC loops, then BellSouth respectfully requests that the Commission adopt the following language, which combines aspects of CompSouth’s language with BellSouth’s:

In new build (Greenfield) areas, where BellSouth has only deployed FTTH/FTTC facilities, BellSouth is only required to unbundle DS1 and DS3 FTTH/FTTC loops to predominantly commercial MDUs, but has no obligation to unbundle such fiber loops to predominantly residential MDUs or any other end user customer premises. While the FCC’s rules provide that FTTH/FTTC loops serving end user customer premises do not have to be unbundled, CLEC access to unbundled DS1 and DS3 loops at predominantly commercial MDUs is preserved. Accordingly, in wire centers in which a non-impairment finding for DS1 or DS3 loops has not been made, BellSouth is obligated upon request to unbundle a FTTH/FTTC loop to provide a DS1 or DS3 loop to a predominantly commercial MDU.

B. Reasons supporting requested clarification.

The contract language BellSouth proposes above more fully addresses the scope of the FCC's fiber relief, which does not require unbundling at predominantly *residential* MDUs. In contrast, the language that CompSouth originally proposed in this proceeding could be read to require BellSouth to provide a CLEC with a DS1 loop to a predominantly residential MDU, which clearly conflicts with the FCC's *MDU Reconsideration Order*.¹¹ Significantly, if a CLEC is provided an unbundled DS1 FTTH/FTTC loop to a predominantly residential MDU, a CLEC could easily subdivide the loop to provide service to twenty-four individual residential customers and thereby thwart the FCC's fiber relief. While BellSouth's original contract language, unmodified, would be appropriate, BellSouth requests the clarification of the Order to make clear the language above accurately reflects the Commission's intended modification.

CONCLUSION

BellSouth respectfully requests that the Commission clarify its *Order* in the manner set forth above.

Respectfully submitted, this 20th day of March, 2006.

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¹¹ CC Docket No. 01-338, FCC 04-191 (Aug. 9, 2004).

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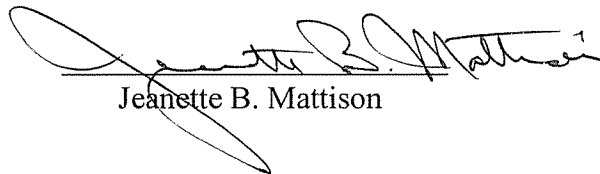
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